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## South Dakota **Tribal Police Chief Confirms VP Arrest**

**BY KRISTI EATON** Associated Press

SIOUX FALLS — The chief of police of an American Indian tribe that is suing some of the world's largest beer makers for contributing to rampant alcoholism confirmed Friday that the tribe's vice president was arrested in an alcohol-related incident.

Oglala Sioux Vice President Thomas Poor Bear was arrested Feb. 19 on the Pine Ridge Reservation on a charge of obstructing government function while receiving treatment at a hospital, according to a portion of a police report The Associated Press obtained from a reservation resident who had access due to his ties with the tribal government.

The arresting officer noted in the report that Poor Bear had "the odor of intoxicants on his breath" and bloodshot eyes. His bloodalcohol content was listed at .306, nearly quadruple the legal limit for driving a car.

Poor Bear told AP he had not been drinking and that his arrest and subsequent jailing was related to driving without a license.

Oglala Sioux Police Chief Richard Greenwald confirmed Friday that Poor Bear's arrest was related to alcohol.

"I think he was arrested for liquor violation and impeding an officer, but of course, like anything else, he's innocent until proven guilty in a court of law," Greenwald said. He said the liquor violation either means Poor Bear was in possession of alcohol or had been consuming alcohol. Both are banned on the reservation.

Greenwald would not go into specifics and said the arresting officer could not comment. He refused to provide the full report because the tribe's laws do not allow for the release of police reports until cases have gone through court.

The copy of the report obtained by AP shows Poor Bear was arrested on a charge of obstructing a government function and notes that alcohol was a factor in the arrest. Poor Bear said he was arraigned three days later on the obstruction charge.

A secretary to the tribe's president, John Yellow Bird Steele, said he was not available to comment.

The Oglala Sioux Tribe has sued several beer makers, saying they are knowingly contributing to the devastating alcohol-related

problems on the Pine Ridge Reservation. The lawsuit, filed last month in the U.S. District Court of Nebraska, seeks \$500 million in damages for the cost of health care, social services and child rehabilitation caused by chronic alcoholism on the reservation, located in some of the poorest counties in the country.

The lawsuit also targets four beer stores in Whiteclay, Neb., a town near the reservation's border. Whiteclay has only about a dozen residents but sold nearly 5 million cans of beer in 2010, according to the federal lawsuit.

Poor Bear has been outspoken in his criticism of the Whiteclay beer stores for providing alcohol to tribal members.

Attorney Tom White, legal counsel for the Oglala Sioux Tribe in the federal lawsuit, was traveling and could not immediately be reached for comment Friday.

Mark Vasina, president of Nebraskans for Peace, which assisted Poor Bear in bringing the lawsuit against the beer companies, said he had no comment.

## Nebraska **Court: Tax Flavored Malt Beverages As Liquor**

#### **BY GRANT SCHULTE** Associated Press

LINCOLN, Neb. - The Nebraska Supreme Court ruled Friday that sweetened malt beverages known as "alcopops" should be taxed as hard liquor instead of beer.

The ruling means the state can tax malt beverages such as Mike's Hard Lemonade and Smirnoff Ice at \$3.75 per gallon, instead of the 31-cent-per-gallon tax imposed on beer, and could force beer-only stores to stop selling such drinks.

But lawmakers are expected to debate a bill this week that would effectively undo Friday's decision, allowing the drinks to again be taxed as beer.

Critics say the beverages are aimed at young customers because of their sweet taste. The Nebraska Liquor Control Commission classified brewed malt beverages as beer in 2006, to

align the state's alcoholic beverage policies with federal rules.

The ruling answered a 2009 lawsuit filed by a mother and three Nebraska groups that fight underage drinking. The groups argued that the state commission ruling conflicts with Nebraska law – enacted right after Prohibition — that bans the mixture of hard liquor and beer. Nebraska is the only state with such a ban.

One of the groups, Project Extra Mile, contends the beer classification helped make the drinks popular with underage drinkers by keeping them on more store shelves and at lower prices. Assuming the higher taxes are passed along to consumers, the hard-liquor classification would significantly raise shelf prices.

The court said the commission exceeded its authority when it classified the beverages as beer, but acknowledged that the Legislature could change the definition.

"The Nebraska Liquor Control Commission plainly defines spirits as beverages that contain alcohol obtained by distillation," the court wrote in its opinion. "Up to 49 percent of the alcohol in flavored malt beverages is distilled alcohol. Therefore, a flavored malt beverage is a spirit.

The Nebraska Attorney General's office argued that flavored malt beverages meet the definition of beer under state law. The attorney general's office also questioned whether the mother and three groups had standing to bring the lawsuit because the classification of the drinks had no direct effect on them.

The group's attorney, Vince Powers, said taxing the malt beverages as liquor could yield an additional \$2 million to \$3 million annually for the state and helped fight underage drinking.

"Now these out-of-state corporations will have to follow the law and pay their fair share like the rest of us," he said.

But Nebraska lawmakers could begin debate as early as this week to redefine the beverages as beer for tax purposes. Wilber Sen. Russ Karpisek said

he introduced the measure in anticipation of the court rejecting the commission's decision and classifying the drinks as liquor.

His proposal, LB 824, has won support from the beverage, grocery and convenience stores industries but was opposed by Project Extra Mile, the Omahabased group that fights underage drinking. The Legislature's General Affairs Committee voted 8-0 to advance the measure for full legislative debate.

"That's why we put the bill in," Karpisek said of the ruling. "We wanted it just in case the ruling wasn't what we agreed with, or if there wasn't a ruling for a while."

# Nebraska Court Rejects Death Row Inmate's Appeal

#### **BY JOSH FUNK** Associated Press

OMAHA, Neb. — A Nebraska court won't consider a death row inmate's appeal raising questions about the state's new lethal injection method and how the drugs

needed for it were obtained.

motions," Attorney General Jon Bruning said Friday.

**Richardson County District** Judge Daniel Bryan said that Ryan's challenge of the execution method couldn't be raised in a motion for post-conviction relief like Ryan filed. Instead, Bryan suggested Ryan should have based his allenge on federal civil rights

ruled in 2008 that death via electrocution was cruel and unusual punishment and the state Legislature changed Nebraska's method to lethal injection.

Ryan's lawyer argued it was improper and unfair to change the execution method years after Ryan was sentenced in 1986. Soucie also have been commuted to life in prison because Nebraska used questionable tactics to obtain sodium thiopental, a hard-to-find drug for executions. Sodium thiopental is no longer manufactured in the United States and is in scarce supply worldwide. Soucie cited claims by a Swiss manufacturer of the drug, Naari AG, that the sodium thiopental Nebraska bought was a sample intended only to be used for evaluation purposes in Zambia. Bruning has defended the state's purchase of the lethal injection drug as legal. At the time of the killings near

Rulo, Ryan and about 20 cult members lived at the farm and stored weapons in preparation for a final battle between good and evil.

Ryan, known to cult members as the "King," ordered the murder of Thimm because Ryan believed he had displeased God. Over three days, Thimm was beaten, sexually tially skinned while still alive. His fingertips had been shot off on one hand.

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### Legislature Endorses Teach For America Bill

PIERRE (AP) - South Dakota's Senate and House have approved an amended bill that sets up a funding mechanism to expand Teach For America in South Dakota for the next four years.

Because the Legislature has passed special spending bills in recent days that add one-time money to education and medical services, the Teach for America bill could move forward.

The measure allows the state to match private dollars without exceeding \$250,000 through 2016. With extra funding, the program plans to expand from 57 educators to 100 by 2015. The program will also expand to other reservations including Crow Creek and Chevenne River.

If Gov. Dennis Daugaard approves it, the bill becomes effective June 20, 2012.

Senators voted 21-2 Friday, sending it to the governor for his signature.

#### AG: Deputy Justified In Shooting Minn. Man

PIERRE (AP) — South Dakota investigators have determined that a sheriff's deputy was justified in shooting a Minnesota man following an escalation from a short vehicle pursuit in rural Moody County.

Attorney General Marty Jackley and the Division of Criminal Investigation say that after 59-year-old Robert Nosbusch failed to follow repeated commands on Feb. 16, he began walking towards officers and another Pipestone, Minn., man wielding a 45 caliber pistol.

The investigation found that Moody County Sheriff's Deputy Nathan Bowden had little choice but to fire his weapon in defense of himself and the third party.

Nosbusch was taken by ambulance to a hospital and treated for wounds.

### **Daugaard Heads To China This Month**

PIERRE (AP) - South Dakota Gov. Dennis Daugaard says he will travel to China this month as part of a delegation to help expand overseas markets for the state's exports.

The governor announced his trip during his weekly legislative session conference Friday.

Daugaard says 420 South Dakota companies export over \$1 billion-worth of products each year, such as manufactured food, transportation electrical equipment and fabricated metal parts.

The state is partnering with North Dakota, whose Trade Office extended an invitation so that South Dakota could make business contacts.

Daugaard says it makes sense for South Dakota to eventually develop Mandarin learning programs so citizenry can better communicate with Chinese counterparts.

Representatives from Kolberg-Pioneer, Lloyd's Systems, Daktronics and Masaba will also take part in the trip from March 24-29.

### **Teenager Charged With Kidnapping, Assault**

SIOUX FALLS (AP) - Sioux Falls police say a local teenager is facing robbery, assault and kidnapping charges after he allegedly forced another teen out of school and beat her up.

KELO-TV reports that the incident happened near Roosevelt High School on Friday between a boy and a girl — both teenagers who had a previous relationship. When the boy found out the 17-year-old girl had a new boyfriend, he confronted her and forced her outside the school to a nearby park.

Police spokesman Sam Clemens says the boy punched and choked the girl before she was able to get free for help. The boy was arrested, while the girl was treated for minor injuries.

Authorities are not releasing the teenagers' names because they are juveniles.

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Michael Ryan, who was sentenced to death for cult-related killings in 1985, should have filed a different kind of motion to challenge Nebraska's execution method, according to a Richardson County District Court ruling on Thursday rejecting Ryan's appeal. The Nebraska Supreme Court had blocked Ryan's execution while the motion was pending.

"We're pleased with this ruling - it's time for defense counsel to stop wasting the court's time and money with frivolous, meritless

laws.

Ryan's attorney, Jerry Soucie, didn't immediately respond to a phone message Friday morning.

Ryan was convicted of torturing and killing James Thimm at a southeast Nebraska farm where Ryan led a cult near Rulo in 1985 and beating to death the 5-year-old son of a cult member.

When Ryan was sentenced to death, the electric chair was Nebraska's sole method of execution. But the Nebraska Supreme Court

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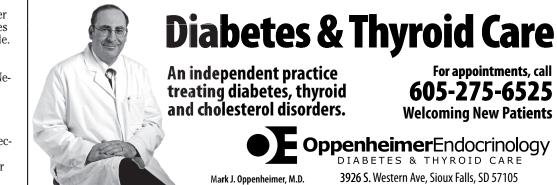
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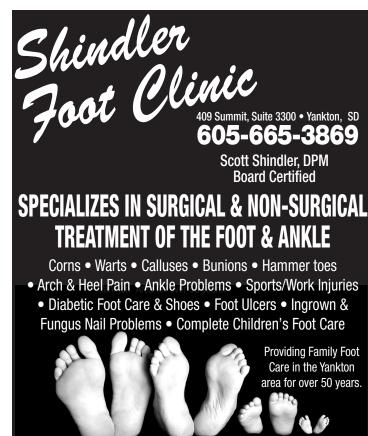
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